

Staff Paper Series

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SELF-HELP RELIEF FROM MORTGAGE FORECLOSURE

by

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Economics**

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SELF-HELP RELIEF FROM MORTGAGE FORECLOSURE

by Robert W. Snyder*

Introduction

In 1983, the Minnesota Legislature passed a new law giving temporary relief to certain owners of mortgaged property who are facing financial difficulties. In very general terms this law, which may be called the "mortgage foreclosure moratorium act", allows a distressed landowner to get up to a twelve (12) month delay in the foreclosure sale of mortgaged property.^{1/}

The purpose of this leaflet is to provide information, legal forms, and instructions that will allow qualified farm and home owners to take at least partial advantage of the new law, by self-help, and thus avoid some or all attorney's fees. By following these instructions carefully, landowners will be able to effectuate the first stage of court actions -- a temporary halt to pending mortgage foreclosure proceedings. This will give the financially-pressed farmer or homeowner a brief period to 1) Do some financial planning, perhaps with the assistance of the Agricultural Extension Service, and 2) Try to negotiate a settlement with the lender responsible for the foreclosure proceedings.

If a borrower is unable to negotiate a settlement well before the end of the temporary period of stoppage, a licensed attorney should be retained for purposes of representation in subsequent legal proceedings. Even if this occurs, the landowner will have saved some legal fees by following the self-help instructions in this leaflet.

Description of the Act

1. Name (for our purposes): 1983 Mortgage Foreclosure Moratorium Act.
2. Period of Effectiveness: The moratorium act applies only to foreclosure proceedings commenced after May 24, 1983 and before the act sunsets on July 1, 1984. Some parts die sooner, on April 30, 1984.
3. Mortgages Affected: The new law applies only to qualifying first mortgages on qualified property.

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^{1/} Other portions of the 1983 law provide somewhat similar relief from contract-for-deed agreements.

To qualify, a first mortgage (1) must have been given before May 24, 1983 and (2) must NOT have been extended or renewed for a period longer than one year after May 24, 1983.

Mortgaged property qualifies if (1) it is homestead property, (2) no second or subsequent mortgage has been made against the property after May 24, 1983 and (3) the 1983 moratorium act has not previously been used on this piece of property.

4. Delay in Mortgage Foreclosure Sale: For most landowners, the most important provisions in the 1983 legislation are those allowing a delay in the mortgage foreclosure sale. To understand how the new law operates, it is useful to review mortgage foreclosure as a legal proceeding.

Mortgage foreclosure normally involves the following steps:

- 1) The lender that has taken the mortgage as security for a loan, (the mortgagee), or a bank, public agency, or other party to whom the lender (mortgagee) has assigned its rights under a mortgage agreement (an assignee) gives the landowner written notice that payments are in default. This notice should be given by certified mail, using a letter labeled "Notice of Default" or "Notice of Acceleration".^{2/} It will tell the extent of the default, the payment needed to cure the default, and the deadline payment date which must be met to prevent the next step in the foreclosure proceeding.

- 2) If the default is not cured during the notice period, the foreclosing party will turn the matter over to an attorney who will prepare and have published a "Notice of Mortgage Foreclosure Sale" in the legal newspaper for the location of the mortgaged property.

- 3) The attorney for the foreclosing party will also arrange to have personally delivered to (served upon) occupants of the mortgaged property written notice of the mortgage foreclosure sale at least four (4) weeks prior to the date of the sale.

- 4) If the mortgage is not reinstated by proper payment before the date of the mortgage foreclosure sale, someone from the county sheriff's department will "sell" the property by auction at the time and place indicated in the notice. The sale price will normally be large enough to cover the total amount unpaid on the mortgage plus interest, costs of the foreclosure proceeding, including attorney's fees, and any insurance and tax payments that have been advanced by the foreclosing party. The sale terminates the mortgage, but the landowner foreclosed against may continue to occupy the property and has the right to "redeem" the subject property during a period of either six or twelve months. If the property exceeds 10 acres in size,

^{2/} This notice is required by statute for all conventional mortgages and may be required by the terms of other mortgage agreements.

5. Notice Before Sale: The timing of the two notices that normally precede a mortgage foreclosure sale are both affected by the 1983 legislation.

(a) The first is the Notice of Acceleration or Notice of Default. 3/ The 1983 law requires that the stated time allowed to cure the default must be at least 60 days after the notice is mailed. This requirement terminates automatically on April 30, 1984, after which the previous 30 day requirement will again apply.

(b) The second notice is notice of the mortgage foreclosure sale itself. Under the 1983 law, eight weeks published notice is required. This requirement also terminates automatically on April 30, 1984, after which the previous six week requirement will again apply.

6. Other Provisions: Another part of the 1983 law shortens the redemption period after a postponed foreclosure sale by a period equivalent to the period of postponement, but never to less than 30 days. This may be significant if you are unable to cure the default in the mortgage payments before the postponed foreclosure sale.

If, after obtaining the postponement, you are unable to make the partial mortgage payments ordered by the District Court Judge, you may request that the Order for the payments be changed. If you fail to make the partial payments as ordered, foreclosure proceedings can be commenced immediately. A second or reinstated moratorium will not be available since the 1983 legislation may be used to provide relief only one time on a given piece of property.4/

Using the Foreclosure Moratorium Act

Once you have received the Notice of Default (or Acceleration) referred to in Step 1 above, you should be eligible to request action by the District Court that can lead to a delay of up to 12 months in the mortgage foreclosure sale of your property. By following the instructions and using the worksheets that follow, you can accomplish the first step of this by yourself, avoiding any unnecessary expense for attorney's fees.

Before you proceed, consider this: If you first learn of the foreclosure proceedings through a Notice of Sale and have never received a Notice of Default (or Acceleration), you should consider challenging the validity of the proceedings without using the moratorium act. In the case of all conventional mortgages, a 60 day Notice of Default must precede the Notice of Sale. If the notice is not given, the foreclosure proceedings

3/ This notice may not be given for some nonconventional mortgages. See Footnote 2.

4/ This also applies to relief under the contract-for-deed provisions of the new law.

the redemption period is 12 months. Redemption requires payment of the sales price plus interest.

5) If the property is not redeemed during the redemption period, the landowner foreclosed against loses possession of the property. The certificate of sale acquired by the buyer at the mortgage foreclosure sale (if properly recorded) acts as an automatic conveyance of the property at the end of the redemption period.

The Mortgage Foreclosure Moratorium Act gives a farm or home owner temporary protection against mortgage foreclosure through a District Court Order that postpones the date of the mortgage foreclosure sale. This is significant because, until this sale, the mortgage can be reinstated by bringing payments up to date and reimbursing the foreclosing party for certain advances (e.g., property taxes) and expenses; after the sale, the mortgage may not be reinstated and the only way the borrower can keep from losing the property is to "redeem" it by paying the price that the property was auctioned off for at the foreclosure sale, plus interest. Unless most of the loan has already been repaid, the difference between the two figures will be substantial.

Here is the way the new law works. Once a farm or home owner has received notice that the mortgage on his property is being or may be foreclosed, the landowner may petition the District Court for a postponement of the mortgage foreclosure sale, using the procedures outlined below. Upon receipt of a properly drafted and signed petition, the District Court Judge is required to issue an Order temporarily stopping the foreclosure proceedings until a hearing is held on the request for postponement. The hearing must be held within 30 days.

At the hearing, both the landowner, now called the Petitioner, and the bank or other party foreclosing on the mortgage, now called the Respondent, have an opportunity to present facts and arguments about whether the sale should be postponed, how long it should be postponed, and the amount, if any, that the Petitioner should be required to pay as partial payments on the mortgage during the postponement period. After the hearing the Judge will issue a final Order on these matters.

The maximum postponement is 12 months if the mortgaged property is more than ten acres and six months otherwise.

The Order for the postponement is not effective until the Petitioner has paid to the District Court Clerk (for the Respondent) the actual costs incurred by the Respondent, including attorney's fees, in the foreclosure proceedings prior to the postponement. These costs should be zero or minimal if the Order stopping the foreclosure proceedings is made prior to publication of the Notice of Mortgage Foreclosure Sale. The costs could be substantial if the Order is made later, largely because of the foreclosing party's attorney's fees, which are controlled by statute.

are probable invalid. The same thing may be true for nonconventional mortgages (e.g., those insured by the Veteran's Administration). For either type of mortgage, the best course of action may be to attack the proceedings as unlawful. To do this, you will need to hire an attorney. Assuming that you are successful, you may then invoke the 1983 moratorium act if and when you later receive a Notice of Default.

These instructions apply directly to two situations: 1) The property subject to the mortgage is still owned by the original borrower who gave the mortgage as security for a loan or 2) The mortgaged property is the subject of a contract for deed through which the present owner has assumed the mortgage from the original borrower. If your situation does not match one of these, you will have to modify the procedure, specifically with respect to the allegations and exhibits concerning how the present owner became responsible for mortgage payments, (paragraph 4 in the Petition and Verified Complaint (see Attachment B)).

Important

If the mortgage foreclosure proceedings have already progressed to the point where the mortgage foreclosure sale will soon occur, you should not attempt to deal with this matter without consulting a licensed attorney. Local practices, policies, procedures, and interpretations of the law may vary and the instructions below may need modification. Once the sale has occurred, no relief may be obtained through the new legislation.

Deciding When to Use the Moratorium Act

Although you are eligible to make use of the mortgage foreclosure moratorium act once you have received the Notice of Default (or Acceleration), you may want to consider delaying efforts to obtain relief under the law until the Notice of Mortgage Foreclosure Sale has been published. The advantage of waiting is that the Notice of Sale establishes a definite date from which the six-or twelve-month delay can be measured. If the foreclosure proceedings are stopped prior to publication of the Notice of Sale, no sale date has yet been established. The court may decide to measure the six-or twelve-month delay from the date of the hearing on the postponement instead of from the date of a theoretical sale date that might have been established if the foreclosure proceedings had not been halted. This will reduce the time gained by the postponement.

The disadvantage of waiting until the Notice of Mortgage Foreclosure Sale has been published is that obtaining the postponement will be more costly. This is because, by law, the order postponing the sale will not be effective until the Petitioner has paid to the Clerk of District Court a sum equivalent to the costs that have been incurred by the Respondent in the foreclosure proceeding, including attorney's fees. These costs will be minimal or zero before the Notice of Sale is published but may be hundreds of dollars after the Notice of Sale is published. Attorney's fees are

controlled by statute and you can obtain a rough estimate by a simple calculation. First, use the formulas below to determine a maximum fee for the entire foreclosure proceedings.

If the mortgage was made before June 1, 1971

<u>Original Amount Borrowed</u>	<u>Maximum Fee</u>
Up to \$10,000	\$175 or less
\$10,000 and over	\$225 plus \$50 for each additional \$10,000 or major fraction thereof.

If the mortgage was made after May 31, 1971

<u>Original Amount Borrowed</u>	<u>Maximum Fee</u>
Up to \$10,000	\$225 or less
\$10,000 and over	\$275 plus \$35 for each additional \$5,000 or major fraction thereof.

Then, multiply the calculated sum by 50% to estimate the maximum attorney's fees for foreclosure proceedings that stop prior to the foreclosure sale, except the maximum must be at least \$150.00

Use these figures with caution. They are approximations. You should always obtain an exact amount in writing from the Respondent.

The Step-by-Step Procedure

1. Obtain or make three (3) copies of each of the following:
 - (a) Any Notice of Default (Notice of Acceleration, etc.) on the mortgage that you have received;
 - (b) The mortgage instrument itself (copies for "abstract" property should be available from the County Recorder; copies for "Torrens" (registered) property should be available from the County Registrar of Titles);
 - (c) Any other instrument through which you assumed responsibility for payments on the mortgage (e.g., contract for deed); and
 - (d) The Notice of Mortgage Foreclosure Sale, if already published.

2. Complete a "Summons and Notice of Hearing" by typing an original or filling in blanks in the attached form, in accordance with Attachment A. Do not sign until later.
3. Complete a "Petition and Verified Complaint" by typing an original or filling in blanks in the attached form, in accordance with Attachment B. Do not sign until later.
4. Take the Petition and Verified Complaint with all exhibits labeled and attached, to a Notary Public and have your signature on the "Verification" notarized. To find a Notary Public, check with your local Courthouse or bank.
5. Date and sign the Summons and Notice of Hearing and the Petition and Verified Complaint.
6. Make two (2) photocopies of the signed Summons and Notice of Hearing and the signed Petition and Verified Complaint. Attach labeled exhibits to the photocopies.
7. Contact the Assignment Clerk for the District Court at your County Courthouse and ask the Clerk to schedule a date, time, and place for a hearing on the mortgage foreclosure sale postponement that you will be petitioning for. The hearing must be held within thirty (30) days of the date you actually initiate legal proceedings with Step 12. Be prepared to show the Clerk the original signed Summons and Notice of Hearing and Petition and Verified Complaint. Also, ask for the Clerk's advice about the best date and time of day for you to present your Petition to a District Court Judge.
8. Obtain from the Clerk of District Court a "Note of Issue" form.
9. Complete the Note of Issue as indicated on the form itself. Make a copy for your own file. Keep the original for later filing.
10. Obtain from the foreclosing bank or other lending agency a written statement, preferably an affidavit, showing the exact amount of the actual costs, including attorney's fees, that will have been incurred by them in the foreclosure proceeding, as of the date that you plan to initiate legal proceedings (Step 12). Be prepared to show this statement and pay this amount, if necessary, to the Clerk of District Court at that time.
11. Prepare an "Order for Stay of Proceedings" by typing an original or filling in blanks in the attached form, in accordance with Attachment C.
12. Present the original signed copies of the Summons and Notice of Hearing and Petition and Verified Complaint to the District Court Judge serving as "Special Term" Judge or, if that Judge is not available, to any other District Court Judge, and request that the Judge sign the Order of Proceedings. Be prepared to tell the Judge the purpose of the moratorium act (relief from economic hardship) and to describe your own financial circumstances and need for relief. Be sure the date of the signature is indicated.

13. Make two (2) photocopies of the signed Order for Stay of Proceedings.
14. Arrange for "service on" (personal delivery to) the Respondent or the Respondent's attorney, using the following procedure:
 - (a) Determine whether to serve the Respondent or its attorney. If you have already received the Notice of Sale, serve the attorney, whose name will appear at the end of the Notice. If you have not yet received the Notice of Sale, serve the Respondent.
 - (b) Deliver to the Civil Division of the County Sheriff's Department the following documents:
 - 1) The original and a photocopy of the Summons and Notice of Hearing.
 - 2) The original and a photocopy of the Petition and Verified Complaint (with all Exhibits).
 - 3) The original and a photocopy of the Order for Stay of Proceedings.
 - (c) Request that the County Sheriff's Department (1) show the original signed copy of the Order for Stay of Proceedings to the person being served, (2) serve photocopies of all three documents, and (3) return the three original documents to you with a signed Affidavit of Service. The Affidavit of Service should state that the Sheriff's Department both (1) showed the original signed Order to the person served and (2) served all three photocopy documents.
 - (d) Pay the County Sheriff's Department their regular fee for service. Usually it will be more than enough to cover the actual charge and the overpayment will be returned to you after service has been accomplished.
15. After the County Sheriff's Department returns the original signed documents, with the Affidavit of Service attached, to you, make one photocopy of the Affidavit of Service.
16. Take the three original documents with the original Affidavit of Service attached and the original Note of Issue to the Courthouse and file them with the Clerk of District Court. Pay the filing fee (about \$35.00) to the Clerk. The Clerk will set up a file for your case (also called an "action") and assign a file number to it. Write in this file number on the documents you have retained in your own file.

Negotiations and Subsequent Proceedings

Following these procedures carefully should stop the mortgage foreclosure proceeding until the hearing on your Petition. The next step is to try to negotiate a settlement so that you can avoid further litigation. You should take the initiative. Contact the foreclosing party (the Respondent) and do some financial planning and analysis that

will help you to negotiate effectively. Bear in mind that, unless agreement is reached within 20 days, the Respondent will need to respond to your Petition in writing (see Attachment A). This will require further expense by the Respondent for attorney's fees and may make it more difficult to reach a satisfactory settlement.

Assuming lack of agreement, here's what is likely to happen: You will receive in the mail a legal document labeled "Answer" or "Answer and Counterclaim". In this, the Respondent will admit to some of the allegations (statements) in your Petition, specifically deny others, and state that the Respondent does not know whether certain other allegations are true or not. The Answer will demand that you prove all allegations not admitted to, probably will make one or more specific allegations relative to the justification for the requested postponement, and may state one or more specific "defenses" by the Respondent against the postponement. The Answer will be couched in legal language and may use terms that seem unnecessarily abrasive and argumentative. This kind of language is standard in legal documents of this kind.

The Respondent may also send you a letter suggesting the possibility of a "Stipulation". A Stipulation is a legal document certifying to the Court that the parties to a legal action (here yourself and the Respondent), agree as to certain facts relating to the litigation. It is a tool used in the legal system to make it necessary to prove to the Court that such facts are true. It is not recommended that you sign a Stipulation without legal counsel, except for the Stipulation for Order of Dismissal referred to below.

Important

If you are not able to negotiate an agreement at least a week before the date of the hearing, you should retain a licensed attorney as soon as possible. The attorney will need some time to become familiar with your circumstances and develop a convincing presentation for the hearing. Evidence and results of financial planning will be particularly useful at this time. The attorney also may be able to arrange a satisfactory stipulation.

Dismissing the Action

If an agreement is reached, it should be placed in writing and signed by both parties. Once that has been done, the action should be "dismissed" (withdrawn from litigation). This can be done by filing with the Clerk of District Court a Stipulation for Order of Dismissal signed by all parties or their attorney's and obtaining the Judge's signature on an Order for Dismissal, which must then also be placed in the District Court file. For a sample of a Stipulation for Order of Dismissal, see Attachment D. For a sample Order of Dismissal, see Attachment E. Photocopies of both documents should be sent to the Respondent.

Payment of Respondent's Costs of Foreclosure

As mentioned earlier, one advantage of obtaining a court Order stopping the foreclosure proceedings before the Notice of Sale is published is the avoidance of most, if not all, of the costs incurred by the Respondent in the foreclosure proceedings prior to the stoppage. The 1983 Mortgage Foreclosure Moratorium Act specifically requires that a sum equal to these costs be paid by the Petitioner to the District Court Clerk before any postponement of the sale is effective.

There seems to be variation among the different judicial districts as to when this payment must be made. At the latest, it will be required at the time of the effective date of a judicial Order for a postponement of the sale made by a District Court Judge after a hearing on the Petition. Without payment at that point, the Order will have little or no effect.

Some judges, interpreting the new law differently, have required the Petitioner to make this payment before they will sign the Order for Stay of Proceedings. In fact, just such a refusal prevented one metropolitan-area Petitioner from being able to stop a foreclosure sale of his property, because he was not prepared to make the required payment on the day before the sale was scheduled.

This interpretation seems less likely if the Order is requested in earlier stages of the foreclosure proceedings, but a petitioning landowner cannot be absolutely sure of what will be required of him in a particular District Court. The upshot is - be prepared to make the payment if it is requested. Otherwise, all of your efforts may go for naught.

Bibliography

Chapter 215 Laws of Minnesota, 1983

Minnesota Statutes Ch. 323

Minnesota Statutes, Ch. 580

Minnesota Statutes, Section 582.01

Minnesota Rules of Civil Procedure

STATE OF MINNESOTA (1)

DISTRICT COURT

COUNTY OF (2)

(3) JUDICIAL DISTRICT

(5)

(4)

Petitioner(s),

SUMMONS AND

vs.

NOTICE OF HEARING

(6)

'

File No. (8)

Respondent.

(7)

The State of Minnesota to the Above-Named Respondent:

You are hereby summoned and required to serve upon Petitioner an Answer to the Petition and Verified Complaint which is herewith served upon you within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint.

You are further notified that a hearing on the attached Petition and Complaint will be held before the District Court for the (9) Judicial District on (10) at (11) (11, continued) beginning at (12).

DATE:

(14) , Petitioner pro se (13)

(15)

(15, continued)

(16)

(18) , Petitioner pro se (17)

(19)

(19, continued)

(20)

INSTRUCTIONS

Attachment A: Summons and Notice of Hearing

1. If you prepare an original document place the first line at least one (1) inch below the top of the page and number all pages at the bottom. If you fill in blanks in the form provided (see page 15), type or print all entries. See the sample on page 14 for further guidance.
2. Insert here the name of the county in which the foreclosure proceedings have been commenced. Use all capital letters (e.g., OLMSTED).
3. Insert here the number of the judicial district in which the county is located. Use the map on page 16 to determine the correct number. Use all capital letters (e.g., JACKSON).
4. At this location, type or draw a solid line half-way across the page.
5. Insert here the name(s) of the owner(s) of the property that the mortgage is being foreclosed upon. If the property is owned by yourself and your spouse, include both names. If it is owned by a partnership, use the name of the partnership. Any general partner can sue on behalf of the partnership.
6. Insert here the name of the bank or other agency or individual that has started the foreclosure proceedings. This may be the original lender (mortgagee) of a party to whom the mortgagee has assigned its rights under the mortgage (assignee). Usually, it will be the bank or agency you have been making mortgage payments to.
7. Same as Instruction Four.
8. Leave this space blank until you file this document (and others) with the Clerk of District Court (Step 16), who will then assign a number to your case (also called an "action"). At that time you should fill in the file number on all documents.
9. Same as Instruction Three.
10. Insert here the date, including the year, of the hearing on your petition. If not yet scheduled, leave a blank to fill in later.
11. Insert here the place where the hearing will take place. If not yet determined, leave a blank space to fill in later.
12. Insert here the time at which the hearing is scheduled. If not yet determined, leave a blank space to fill in later.
13. At this location, type or draw a solid line for the signature of the first petitioner, presumably yourself.

14. Insert here the name of the first petitioner. If the petitioner is a partnership, insert the name of the partnership, strike out the words "pro se", and, on a second line before your address, insert the word "by", then your name, then the words, "General Partner".
15. Insert on these two lines the full address of the first petitioner.
16. Insert here the phone number, including the area code, of the first petitioner.
17. At this location type or draw a solid line for the signature of the second petitioner, if any. If the property is owned by yourself and your spouse, both should sign as petitioners. If the property is owned by a partnership, a signature by one of the general partners is sufficient.
18. Insert here the name of the second petitioner, if any.
19. Insert on these two lines the full address of the second petitioner, if any.
20. Insert here the phone number, including the area code, of the second petitioner, if any.

STATE OF MINNESOTA
COUNTY OF BENTON

DISTRICT COURT
SEVENTH JUDICIAL DISTRICT

John B. Anderson and Alice M. Anderson,

Petitioner(s),

vs.

First National Bank of Foley ,

Respondent.

SUMMONS AND

NOTICE OF HEARING

File No.

The State of Minnesota to the Above-Named Respondent:

You are hereby summoned and required to serve upon Petitioner an Answer to the Petition and Verified Complaint which is herewith served upon you within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint.

You are further notified that a hearing on the attached Petition and Complaint will be held before the District Court for the Seventh Judicial District on December 13, 1983 at Hearing Room B, Benton County Court house beginning at 10:00 o'clock A.M. .

DATE:

John B. Anderson , Petitioner pro se
Rt. 2 , Foley, Minnesota 55155
(612) 427-7233

Alice M. Anderson , Petitioner pro se
Rt. 2, Foley, Minnesota 55155
(612) 427-7233

STATE OF MINNESOTA
COUNTY OF _____

DISTRICT COURT
JUDICIAL DISTRICT

Petitioner(s),
vs.

SUMMONS AND
NOTICE OF HEARING

Respondent.

File No.

The State of Minnesota to the Above-Named Respondent:

You are hereby summoned and required to serve upon Petitioner an Answer to the Petition and Verified Complaint which is herewith served on you within twenty (20) days after service of this summons up to and inclusive of the day of service. If you fail to do so, a default will be taken against you for the relief demanded in the complaint.

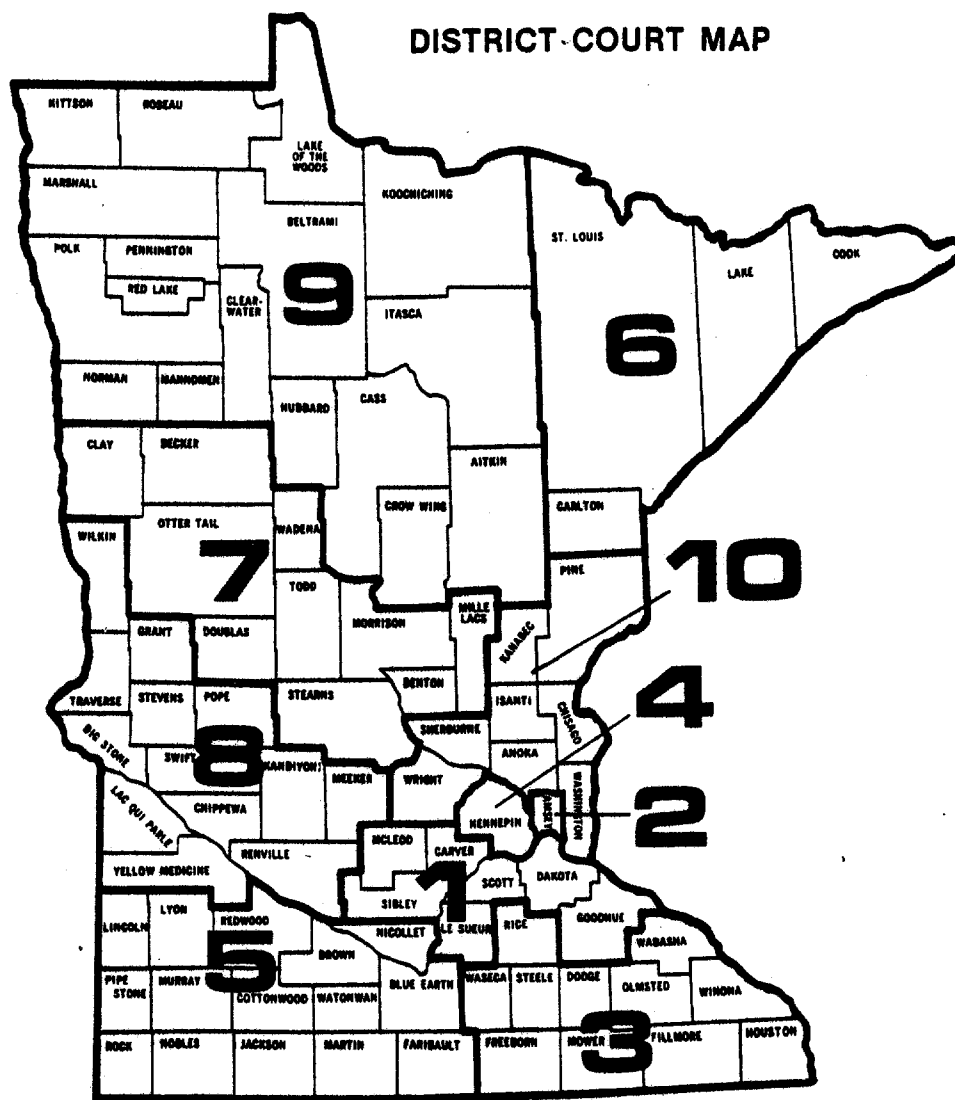
You are further notified that a hearing on the attached Petition and Complaint will be held before the District Court for the Judicial District on _____ at _____

beginning at _____

DATE:

_____, Petitioner pro se

_____, Petitioner pro se



STATE OF MINNESOTA (1)

DISTRICT COURT

COUNTY OF (2)

(3) JUDICIAL DISTRICT

____ (4)

(5)

Petitioner(s),

PETITION AND

vs.

VERIFIED COMPLAINT

(6)

Respondent.

File No. (8)

____ (7)

Petitioner(s), (9)

state and allege as follows:

1. That Petitioner(s), (10)

(11)

(11, continued)

2. That Petitioner(s) are (is) the owner(s) of real property
legally described as follows:

(12)

(12, continued)

(12, continued)

3. That the Petitioner(s) own(s) this property subject to a
mortgage, attached hereto as Exhibit A and incorporated by reference.

4. That the Petitioner(s) are (is) liable for periodic payments
necessary to prevent foreclosure of this mortgage through the following
transactions:

Mortgage agreement between (13)

, as Mortgagee, and (14)

as Mortgagor(s),

dated (15) , attached hereto as
Exhibit A and incorporated by reference.

Contract for Deed between (16)
and (17)
, dated (18) , attached
hereto as Exhibit Aa and incorporated by reference.

5. That the real property described in Paragraph Two (2) is
(19) real estate for a portion or all
of which Petitioner(s) are (is) entitled to receive homestead credit
under M.S.A. §73.13, subdivision 15a.
(20) 6. That Respondent has published a Notice of Mortgage Foreclosure
Sale, a copy of which is attached hereto as Exhibit B and incorporated
by reference, which notice provides that this real property will be
sold at public auction on (21) unless Petitioner(s)
pay to the Respondent the sum of (22) prior to that date.

6. (alternate) That Petitioner(s) have (has) received from Respon-
dent a (23) , a copy of which is attached
hereto as Exhibit B and incorporated by reference, which notice states
that payments on this mortgage are in default and that this default
must be cured by the payment of (24) to the Respondent no later
than (25) days after (26) , and that failure to cure
may result in further foreclosure proceedings against the Petitioner(s).

7. That Petitioner(s) are (is) unable to pay the sum necessary
to prevent continuation of the foreclosure proceedings prior to (27)
(27, continued) , and the Petitioners' inability to pay this sum
is due to (28)

8. That Petitioner(s) (29) partial payments at this time.

9. That this property (30) a farm homestead located on more than ten (10) acres.

10. That, to the best of Petitioners' information and belief, neither a stay in the foreclosure proceedings nor a postponement of the foreclosure sale will cause any right to be lost or adversely affected by any statute of limitation.

11. That, to the best of Petitioners' information and belief, a postponement of the mortgage foreclosure sale will not substantially diminish or impair the value of the mortgage agreement, nor cause irreparable harm or undue hardship to the Respondent.

(31)12. That, as a condition precedent to the postponement of the mortgage foreclosure sale, Petitioner(s) are (is) required by M.S.A. § 583.04 to pay the actual costs incurred by the Respondent, including attorney's fees, in the foreclosure proceedings. That the amount of this payment will be substantially higher if the proceedings are not stayed until after Notice of Sale is given, and that this increased payment will increase the economic hardship suffered by the Petitioner(s) as a result of (32) .

WHEREFORE, PETITIONER(S) PRAY(S) THAT THE HONORABLE COURT

1. Order that the pending mortgage foreclosure proceedings pertaining to the real property described in Paragraph Three (3) be immediately stayed in accordance with M.S.A. §583.04 until a hearing on this Petition and Complaint may be held.

2. Order the postponement of the mortgage foreclosure sale for a period of (33) in accordance with M.S.A. §583.04.

3. Determine the reasonable (34) value of the property.
 4. Order such other relief as the Court deems just and equitable.

DATE: (35)

_____, Petitioner pro se (36)
 (37)
 (38)
 (38, continued)
 (39)

_____, Petitioner pro se (40)
 (41)
 (42)
 (42, continued)
 (43)

VERIFICATION

STATE OF MINNESOTA

COUNTY OF (44)

(45), being first duly sworn, says that (46) is the person who makes the foregoing Complaint in the above-entitled matter; that (47) has read the Complaint and knows its contents; and that its contents are true to (48) knowledge, except as to those matters stated on information and belief and, as to those matters, (49) believes them to be true.

_____, (50)
 Subscribed and sworn to before me
 this day of
 198 .

_____, (51)
 NOTARY PUBLIC

INSTRUCTIONS

Attachment B: Petition and Verified Complaint

1. If you prepare an original document place the first line at least one (1) inch below the top of the page and number all pages at the bottom. If you fill in blanks in the form provided (see page 29), type or print all entries. See the sample on page 25 for further guidance.
2. Insert here the name of the county in which the foreclosure proceedings have been commenced. Use all capital letters (e.g., OLMSTED).
3. Insert here the number of the judicial district in which the county is located. Use the map on page 16 to determine the correct number. Use all capital letters (e.g., JACKSON).
4. At this location, type or draw a solid line half-way across the page.
5. Insert here the name(s), of the owner(s) of the property that the mortgage is being foreclosed upon. If the property is owned by yourself and your spouse, include both names. If it is owned by a partnership, use the name of the partnership. Any general partner can sue on behalf of the partnership.
6. Insert here the name of the bank or other agency or individual that has started the foreclosure proceedings. This may be the original lender (mortgagee) or a party to whom the mortgagee has assigned its rights under the mortgage (assignee). Usually, it will be the bank or agency you have been making mortgage payments to.
7. Same as Instruction Four.
8. Leave this space blank until you file this document (and others) with the Clerk of District Court (Step 16), who will then assign a number to your case (also called an "action"). At that time you should fill in the file number on all documents.
9. Same as Instruction Five.
10. Same as Instruction Five.
11. Insert here a description and location for yourself and other petitioners. If the petitioners are a married couple living together, it would be correct to state "are husband and wife, and reside at (street address or rural route), (city), Minnesota in (name of county) County". If the petitioner is a partnership, it would be correct to state "is a Partnership doing business at (complete post office address) in (name of county) County".
12. Insert here the legal description of your property as contained in the mortgage agreement.

13. Insert here the name of the original lender (mortgagee), as shown in the mortgage agreement.
14. Insert here the name(s) of the original borrower(s)-(mortagor(s)), as shown in the mortgage agreement.
15. Insert here the date of the original mortgage agreement. At this time, mark all photocopies of the mortgage agreement "Exhibit A" at the bottom of the first page. Attach one photocopy to the Petition.
- 16.-18. This sub-paragraph should be included only if you assumed responsibility for mortgage payments by purchasing the property through a contract-for-deed with the original borrower(mortgagor). If you became responsible for mortgage payments through other transactions, such transactions should also be listed and labeled and attached as exhibits. Mark each exhibit at the bottom of the first page.
16. Same as Instruction 14.
17. Same as Instruction 5.
18. Insert here the date of the contract-for-deed. At this time, mark all photocopies of the contract-for-deed "Exhibit Aa" at the bottom of the first page. Attach one photocopy to the petition.
19. Insert here "residential", OR "agricultural" OR "residential and agricultural" as appropriate to your situation.
20. This paragraph should be included in the petition only if the Notice of Mortgage Foreclosure Sale has been published. If you have received a letter informing you that the mortgage is in default and may be foreclosed (a Notice of Default or Notice of Acceleration), but no Notice of Mortgage Foreclosure Sale has been published, use alternate paragraph six.
21. Insert here the date of sale given in the published Notice of Mortgage Foreclosure Sale.
22. Insert here the amount given in the published Notice of Mortgage Foreclosure Sale. At this time, mark all photocopies of the Notice of Sale "Exhibit B" at the bottom of the first page. Attach one copy to the Petition.
23. Insert here the name given to the letter you received, most likely "Notice of Default" or "Notice of Acceleration". If the letter was not named, insert the words "letter notice".
24. Insert here the amount indicated in the letter referred to in this paragraph.
25. Insert the number of days indicated in the letter from the Respondent.

26. Insert here the date of the letter received from the Respondent. At this time, mark all photocopies of the letter "Exhibit B" at the bottom of the first page. Attach one copy to the Petition.
27. If you use the first suggested Paragraph Six, insert here the same entry as for Instruction 21. If you use the alternate Paragraph Six, insert here the number of days and the date indicated in the letter from the Respondent.
28. Insert here the words "unemployment", OR "underemployment" OR "low farm commodity prices" or some combination thereof as appropriate.
29. Insert here one of the two following alternatives, as appropriate: "cannot afford" OR "can only afford minimal".
30. Insert "is" OR "is not" as appropriate.
31. Paragraph 12 should be included only if Alternate Paragraph Six is used and no Notice of Sale has been published.
32. Same as Instruction 28.
33. If the mortgaged property is a farm homestead located on ten (10) acres or more, insert "twelve (12) months". Otherwise, insert "six (6) months".
34. If the mortgaged property is income producing (or held for that purpose) insert "income". If the mortgaged property is not income property, insert "rental".
35. Leave this blank until you first sign the petition. At that time, fill in the date on the original and all photocopies.
36. At this location type or draw a solid underline for the signature of the first petitioner, presumably yourself.
37. Insert here the name of the first petitioner. If the petitioner is a partnership, insert the name of the partnership, strike out the words "pro se", and, on a second line before your address, insert the word "by", then your name, then the words, "General Partner".
38. Insert on these two lines the full address of the first petitioner.
39. Insert here the phone number, including the area code, of the first petitioner.
40. At this location type or draw a solid underline for the signature of the second petitioner, if any. If the property is owned by yourself and your spouse, both should sign as petitioners. If the property is owned by a partnership a signature by one of the general partners is sufficient.

41. Insert here the name of the second petitioner, if any.
42. Insert on these two lines the full address of the second petitioner, if any.
43. Insert here the phone number, including the area code, of the second petitioner, if any.
44. Same as Instruction 2.
45. Insert the name of the person who will be signing the verification, presumably yourself.
46. Insert "he" or "she" as appropriate.
47. Same as Instruction 46.
48. Insert "his" or "her" as appropriate.
49. Same as Instruction 46.
50. Type or draw a solid underline here for the signature of the person verifying the Complaint, presumably yourself.
51. Type or draw a solid underline here for the signature of the Notary Public.

STATE OF MINNESOTA
COUNTY OF REDWOOD

DISTRICT COURT
FIFTH JUDICIAL DISTRICT

John A. Dobenson and Mary B. Dobenson ,

Petitioner(s),

vs.

PETITION AND
VERIFIED COMPLAINT

First National Bank of Lambenton ,
Respondent.

File No.

Petitioner(s), John A. Dobenson and Mary B. Dobenson ,
state and allege as follows:

1. That Petitioner(s), John A. and Mary B. Dobenson , are husband and wife and reside at Rural Route 2 , Lambenton, Minnesota, in Redwood County

2. That Petitioner(s) are (~~is~~) the owner(s) of real property legally described as follows:

Northeast Quarter (1/4) of Section Sixteen (16),
Township Twenty-One (21), Range Thirty-Five
(35).

3. That the Petitioner(s) own(~~s~~) this property subject to a mortgage, attached hereto as Exhibit A and incorporated by reference.

4. That the Petitioner(s) are (~~is~~) liable for periodic payments necessary to prevent foreclosure of this mortgage through the following transactions:

Mortgage agreement between First National Bank of
Lambenton , as Mortgagee, and William M. and Sarah
H. Johnson as Mortgagor(s),

dated *March 15, 1978* , attached hereto as Exhibit A and incorporated by reference.

Contract for Deed between *William M. and Sarah H. Johnson* and *John A. and Mary B. Doberson* , dated *November 1, 1981* , attached hereto as Exhibit Aa and incorporated by reference.

5. That the real property described in Paragraph Two (2) is *agricultural and residential* real estate for a portion or all of which Petitioner(s) are (is) entitled to receive homestead credit under M.S.A. §73.13, subdivision 15a.

6. That Respondent has published a Notice of Mortgage Foreclosure Sale, a copy of which is attached hereto as Exhibit B and incorporated by reference, which notice provides that this real property will be sold at public auction on *January 2, 1984* unless Petitioner(s) pay to the Respondent the sum of *\$2,869.37* prior to that date.

6. (alternate) That Petitioner(s) have ~~(has)~~ received from Respondent a *Notice of Acceleration* , a copy of which is attached hereto as Exhibit B and incorporated by reference, which notice states that payments on this mortgage are in default and that this default must be cured by the payment of *\$1,428.58* to the Respondent no later than *60* days after *October 20, 1983* , and that failure to cure may result in further foreclosure proceedings against the Petitioner(s).

7. That Petitioner(s) are ~~(is)~~ unable to pay the sum necessary to prevent continuation of the foreclosure proceedings prior to *January 2, 1984* , and the Petitioners' inability to pay this sum is due to *low farm commodity prices* .

8. That Petitioner(s) *can afford only minimal* partial payments at this time.

9. That this property *is* a farm homestead located on more than ten (10) acres.

10. That, to the best of Petitioners' information and belief, neither a stay in the foreclosure proceedings nor a postponement of the foreclosure sale will cause any right to be lost or adversely affected by any statute of limitation.

11. That, to the best of Petitioners' information and belief, a postponement of the mortgage foreclosure sale will not substantially diminish or impair the value of the mortgage agreement, nor cause irreparable harm or undue hardship to the Respondent.

12. That, as a condition precedent to the postponement of the mortgage foreclosure sale, Petitioner(s) are (is) required by M.S.A. § 583.04 to pay the actual costs incurred by the Respondent, including attorney's fees, in the foreclosure proceedings. That the amount of this payment will be substantially higher if the proceedings are not stayed until after Notice of Sale is given, and that this increased payment will increase the economic hardship suffered by the Petitioner(s) as a result of *low farm commodity prices*.

WHEREFORE, PETITIONER(S) PRAY(~~S~~) THAT THE HONORABLE COURT

1. Order that the pending mortgage foreclosure proceedings pertaining to the real property described in Paragraph Three (3) be immediately stayed in accordance with M.S.A. §583.04 until a hearing on this Petition and Complaint may be held.

2. Order the postponement of the mortgage foreclosure sale for a period of *twelve (12) months* in accordance with M.S.A. §583.04.

3. Determine the reasonable income value of the property.
4. Order such other relief as the Court deems just and equitable.

DATE:

John A. Doberson , Petitioner pro se
 Rural Route 2
 Lamberton, Minnesota 55444
 (218) 346-8770

Marg B. Doberson , Petitioner pro se
 Rural Route 2
 Lamberton, Minnesota 55444
 (218) 346-8770

VERIFICATION

STATE OF MINNESOTA

COUNTY OF REDWOOD

John A. Doberson , being first duly sworn, says that he is the person who makes the foregoing Complaint in the above-entitled matter; that he has read the Complaint and knows its contents; and that its contents are true to his knowledge, except as to those matters stated on information and belief and, as to those matters, he believes them to be true.

Subscribed and sworn to before me
 this day of
 198 .

NOTARY PUBLIC

STATE OF MINNESOTA
COUNTY OF _____

DISTRICT COURT
JUDICIAL DISTRICT

Petitioner(s),
vs.

PETITION AND
VERIFIED COMPLAINT

Respondent.

File No.

Petitioner(s),
state and allege as follows:

1. That Petitioner(s),

2. That Petitioner(s) are (is) the owner(s) of real property
legally described as follows:

3. That the Petitioner(s) own(s) this property subject to a
mortgage, attached hereto as Exhibit A and incorporated by reference.

4. That the Petitioner(s) are (is) liable for periodic payments
necessary to prevent foreclosure of this mortgage through the following
transactions:

Mortgage agreement between

, as Mortgagee, and

as Mortgagor(s),

dated _____, attached hereto as
Exhibit A and incorporated by reference.

Contract for Deed between

and

_____, dated _____, attached
hereto as Exhibit Aa and incorporated by reference.

5. That the real property described in Paragraph Two (2) is
_____ real estate for a portion or all
of which Petitioner(s) are (is) entitled to receive homestead credit
under M.S.A. §73.13, subdivision 15a.

6. That Respondent has published a Notice of Mortgage Foreclosure
Sale, a copy of which is attached hereto as Exhibit B and incorporated
by reference, which notice provides that this real property will be
sold at public auction on _____ unless Petitioner(s)
pay to the Respondent the sum of _____ prior to that date.

6. (alternate) That Petitioner(s) have (has) received from Respon-
dent a _____, a copy of which is attached
hereto as Exhibit B and incorporated by reference, which notice states
that payments on this mortgage are in default and that this default
must be cured by the payment of _____ to the Respondent no later
than _____ days after _____, and that failure to cure
may result in further foreclosure proceedings against the Petitioner(s).

7. That Petitioner(s) are (is) unable to pay the sum necessary
to prevent continuation of the foreclosure proceedings prior to
_____, and the Petitioners' inability to pay this sum
is due to _____.

8. That Petitioner(s) partial payments
at this time.

9. That this property a farm homestead located on more
than ten (10) acres.

10. That, to the best of Petitioners' information and belief,
neither a stay in the foreclosure proceedings nor a postponement of
the foreclosure sale will cause any right to be lost or adversely
affected by any statute of limitation.

11. That, to the best of Petitioners' information and belief, a
postponement of the mortgage foreclosure sale will not substantially
diminish or impair the value of the mortgage agreement, nor cause
irreparable harm or undue hardship to the Respondent.

12. That, as a condition precedent to the postponement of the
mortgage foreclosure sale, Petitioner(s) are (is) required by M.S.A.
§ 583.04 to pay the actual costs incurred by the Respondent, including
attorney's fees, in the foreclosure proceedings. That the amount of
this payment will be substantially higher if the proceedings are not
stayed until after Notice of Sale is given, and that this increased
payment will increase the economic hardship suffered by the Petition-
er(s) as a result of

WHEREFORE, PETITIONER(S) PRAY(S) THAT THE HONORABLE COURT

1. Order that the pending mortgage foreclosure proceedings
pertaining to the real property described in Paragraph Three (3) be
immediately stayed in accordance with M.S.A. §583.04 until a hearing
on this Petition and Complaint may be held.

2. Order the postponement of the mortgage foreclosure sale for
a period of in accordance with M.S.A. §583.04.

3. Determine the reasonable value of the property.
4. Order such other relief as the Court deems just and equitable.

DATE:

_____, Petitioner pro se

_____, Petitioner pro se

VERIFICATION

STATE OF MINNESOTA

COUNTY OF

_____, being first duly sworn, says that
 is the person who makes the foregoing Complaint in the above-entitled
 matter; that _____ has read the Complaint and knows its contents; and
 that its contents are true to _____ knowledge, except as to those matters
 stated on information and belief and, as to those matters, _____ believes
 them to be true.

 Subscribed and sworn to before me
 this _____ day of _____
 198 .

 NOTARY PUBLIC

STATE OF MINNESOTA (1)

DISTRICT COURT

COUNTY OF (2)

(3) JUDICIAL DISTRICT

____ (4)

(5)

,

Petitioner(s),

ORDER FOR STAY

vs.

OF PROCEEDINGS

(6)

,

Respondent.

File No. (8)

____ (7)

On

(9)

, this court received from Petitioner(s),

(10)

, a Petition and Verified Complaint

requesting that the mortgage foreclosure proceedings for certain property

described as (11)

(11, continued)

be delayed pursuant to M.S.A. §§ 583.04 - 583.12.

This court having read the Petition and Complaint, it is hereby

ORDERED, that a hearing on the Petition and Complaint be held before

this court on

(12)

at

(13)

, beginning at

(14)

, and it is further

ORDERED, that the pending foreclosure proceedings be immediately
stayed in accordance with M.S.A. §583.04 until this hearing shall have
been held, and it is further

ORDERED, that the Petitioner(s) shall immediately serve this
Petition and Complaint upon the Respondent.

BY THE COURT

____ (15)

INSTRUCTIONS

Attachment C: Order for Stay of Proceedings

1. If you prepare an original document, place the first line at least one (1) inch below the top of the page and number all pages at the bottom. If you fill in blanks in the form provided (see page 37), type or print all entries. See the sample on page 36 for further guidance.
2. Insert here the name of the county in which the foreclosure proceedings have been commenced. Use all capital letters (e.g., OLMSTED).
3. Insert here the number of the judicial district in which the county is located. Use the map on page 16 to determine the correct number. Use all capital letters (e.g., JACKSON).
4. At this location, type or draw a solid line half-way across the page.
5. Insert here the name(s) of the owner(s) of the property that the mortgage is being foreclosed upon. If the property is owned by yourself and your spouse, include both names. If it is owned by a partnership, use the name of the partnership. Any general partner can sue on behalf of the partnership.
6. Insert here the name of the bank or other agency or individual that has started the foreclosure proceedings. This may be the original lender (mortgagee) or a party to whom the mortgagee has assigned its rights under the mortgage (assignee). Usually, it will be the bank or agency you have been making mortgage payments to.
7. Same as Instruction Four.
8. Leave this space blank until you file this document (and others) with the Clerk of District Court (Step 16), who will then assign a number to your case (also called an "action"). At that time, you should fill in the file number on all documents.
9. Insert here the date you plan to see a District Court Judge to request an Order stopping the foreclosure proceedings. Although this can be any day of the week, it may be more convenient to do it on days when there is a "Special Term" Judge available (when the court is in a "Special Term" session. Your District Court Clerk will be able to tell you which days of the week or month are Special Term days.
10. Same as Instruction Five.
11. Insert here the legal description of your property as contained in the mortgage agreement.

12. Insert here the date that you have selected for the hearing on the petition (see Step 7).
13. Insert here the room and building where the hearing is scheduled.
14. Insert here the time when the special term court session will begin on the date you have selected. You may be able to choose between a morning session and an afternoon session. The order of matters to be heard during a particular session will be determined by the Court at that time.
15. At this location, type or draw a solid line for the judges signature.

STATE OF MINNESOTA
COUNTY OF *PENNINGTON*

DISTRICT COURT
NINTH JUDICIAL DISTRICT

Herman H. Johnson and Doris A. Johnson,

Petitioner(s),

vs.

ORDER FOR STAY

OF PROCEEDINGS

First National Bank of Thief River Falls,

Respondent.

File No.

On *November 16, 1983*, this court received from Petitioner(s),
Herman H. and Doris A. Johnson, a Petition and Verified Complaint
requesting that the mortgage foreclosure proceedings for certain property
described as *Southwest Quarter (1/4) of Section Fourteen (14),*
Township Twenty-Eight (28), Range Thirt, -Three (33)
be delayed pursuant to M.S.A. §§ 583.04 - 583.12.

This court having read the Petition and Complaint, it is hereby
ORDERED, that a hearing on the Petition and Complaint be held before
this court on *December 12, 1983* at *Room 16, Pennington County*
Counthouse, beginning at *9:30 o'clock A.M.*, and it is further

ORDERED, that the pending foreclosure proceedings be immediately
stayed in accordance with M.S.A. §583.04 until this hearing shall have
been held, and it is further

ORDERED, that the Petitioner(s) shall immediately serve this
Petition and Complaint upon the Respondent.

BY THE COURT

STATE OF MINNESOTA
COUNTY OF

DISTRICT COURT
JUDICIAL DISTRICT

Petitioner(s),
vs.

ORDER FOR STAY
OF PROCEEDINGS

Respondent.

File No.

On _____, this court received from Petitioner(s), _____, a Petition and Verified Complaint requesting that the mortgage foreclosure proceedings for certain property described as

be delayed pursuant to M.S.A. §§ 583.04 - 583.12.

This court having read the Petition and Complaint, it is hereby ORDERED, that a hearing on the Petition and Complaint be held before this court on _____ at _____

_____, beginning at _____, and it is further ORDERED, that the pending foreclosure proceedings be immediately stayed in accordance with M.S.A. §583.04 until this hearing shall have been held, and it is further

ORDERED, that the Petitioner(s) shall immediately serve this Petition and Complaint upon the Respondent.

BY THE COURT

STATE OF MINNESOTA

COUNTY OF _____

DISTRICT COURT
JUDICIAL DISTRICT

,
Petitioner(s),

vs.

STIPULATION FOR ORDER
OF DISMISSAL

File No.

,
Respondent.

The parties to this proceeding hereby stipulate and agree that the Court may enter an Order pursuant to Rule 41.01 of the Minnesota Rules of Court dismissing the petitioner's cause without prejudice. This stipulation is based upon an agreement reached between the parties which resolves this matter to their mutual satisfaction.

Dated this _____ day of _____, 1983.

Petitioner

Respondent

Attorney for Petitioner

Attorney for Respondent

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF _____

JUDICIAL DISTRICT

_____,
Petitioner(s),

vs.

ORDER

File No.

_____,
Respondent.

This matter came on for hearing before the Court on the stipulation of the parties requesting the Court to enter an Order dismissing this action without prejudice. The Court, having reviewed the stipulation, the pleadings and other documents filed herein and being fully apprised,

HEREBY ORDERS that the petitioner's cause shall be and hereby is dismissed without prejudice.

Dated: _____

BY THE COURT:

Judge of District Court

ERRATA

December 1983

Staff Paper P. 83-24, "Self-Help Relief From Mortgage Foreclosure"

Page 3 should be renumbered Page 4.

Page 4 should be renumbered Page 3.

Pages 3 and 4 should be reversed in order.